IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1149 OF 1991

Shri Narayan Ramchandra Desai,)
C/o.Sangli Urban Co-operative)
Bank Ltd., Harbhat Road, Sangli)..PETITIONER

Versus

1. The Chairman, Backward Class)
Cp-op. Collective Farming)
Society Ltd., Utagi, Taluka)
Jath, Dist.Sangli.)
2. Taluka Senior Inspector,)
Sangli District Central Co-op.)
Bank having office at Market)
Yard, Jath, Dist.Sangli.)

Mr. N.V. Walawalkar, for the Petitioner
None for the Respondents.

CORAM: F.I. REBELLO, J.
DATE : 12th January, 2005

JUDGMENT:

1. The petitioner landlord by the present petition impugns the order dated 14th September, 1990 of the Maharashatra Revenue Tribunal. The Assistant Tahsildar by his order dated 31st July, 1983 held that the purchase of the lands set out in the order to be effective under Section 32-G(4) in favour of the respondent herein. Aggrieved the petitioner preferred an Appeal being Tenancy Appeal No.19 of 1984. The Appellate Authority allowed the Appeal by holding that the provisions of Section 32-F(1A) of Bombay Tenancy & Agricultural Lands Act was not applicable as he had attained majority before the said Section was introduced in the Act. It was also noted that the Respondent tenant had sent intimation to the landlord only on 30th September, 1998. Aggrieved the Respondent No.1 preferred a Revision before the Maharashtra Revenue Tribunal. The learned Designated Member considering the scope of Section 32-F(1A) held that it will apply and as the landlord had not given notice on attaining

majority it was open to the tenant to exercise his right of purchase and accordingly allowed the Revision Application. It is this order which is the subject matter of the present petition.

2. A few facts may be noted based on the record and the arguments advanced. The petitioner was born on 1st March, 1951. This is so reflected in the revenue records which were before the trial Court. It was considered by the Revisional Authority in its impugned order wherein it has been noted that in so far as the date of birth of the landholder is concerned, there is oral evidence on this point and is reflected in VII - XII extract. Considering the date of birth the petitioner would have attained majority on 1st March, 1969. The amendment has come into force thereafter. The notice to purchase or intimation was sent only on 30th September, 1978.

3. The limited issue, therefore, is whether Section 32-F(1A) as amended would apply to a case where the landlord had attained majority before the amendment came into force. The judgment of the Revisional Authority is dated 14th September, 1990. A learned Judge of this Court in the case of **Mohan Gajanan Deshpande vs. Dhondiram Hari Chavan & Ors., 1986 (2) Bom.C.R.581** has taken the view that it is prospective and would not apply to a case where the landlord had attained majority before the Act came into force on 17th October, 1969. The Tribunal would have been bound by that view. However, it seems that the judgment was not placed for consideration of the learned Tribunal. This view of the learned Single Judge stands approved pursuant to the judgment of the Apex Court in **Anna Bhau Magdum (since deceased by L.Rs. vs. Babasaheb**

Anandrao Desai, AIR 1995 S.C. 2164 wherein the Apex Court in paragraph 9 has observed that Section 32-F (1A) would not apply to cases before the amendment came into force.

4. Once that be the case the impugned order of the Tribunal clearly suffers from an error apparent on the face of the record and in the light of that the impugned order dated 14th September, 1990 is set aside and the order of the Appellate Court dated 13th September, 1997 is restored. Rule made absolute accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)